

AD-A271 072



ASD (C 51)
6-14-1802-

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January 15, 80
NUMBER 4640.1



USD(P)

Department of Defense Directive

SUBJECT Telephone Monitoring and Recording

References: (a) DoD Directive 4640.1, "Telephone Monitoring," September 3, 1969 (hereby canceled)
(b) through (i), see enclosure 1

A. REISSUANCE AND PURPOSE

This Directive reissues reference (a), and updates the policy and procedures concerning monitoring and recording of telephone conversations over DoD-owned or leased telephone communication systems for office and communications management, command center communications, and American Forces Radio and Television Service.

B. APPLICABILITY AND SCOPE

1. The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

2. This Directive does not apply to communications security monitoring and recording; signals intelligence activities; interception of oral and wire communications for law enforcement purposes (DoD Directive 5200.24 (reference (b))); technical surveillance (DoD Directive S-5200.19 (reference (c))); foreign intelligence and counterintelligence collection activities (E.O. 12036 (reference (d))); and telephone monitoring under combat conditions.

C. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

D. POLICY

1. General. Department of Defense policy permits telephone monitoring or recording for the purposes described in this section provided that the information

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to be acquired is necessary for the accomplishment of the DoD mission and then only in compliance with this Directive.

2. Office Management Activities

a. Office monitoring and recording of telephone conversations may be conducted for the purpose of making a transcript or summary of the conversation.

b. The individual desiring to have the telephone conversation monitored or recorded must obtain the prior expressed consent of each of the other parties to the conversation.

c. Acoustic or inductive type recording devices may not be used for office management activities (Use of Recording Devices in Connection with Telephone Service (reference (e))).

d. All recording devices used for office management activities must be equipped with recorder connectors that contain instruments that automatically emit a warning tone once every 12 to 18 seconds during the period of recording (reference (e)).

3. Communications Management Activities

a. Conversations may not be recorded for communications management purposes.

b. The policy that DoD telephones are to be used only to conduct official business shall be enforced through administrative and management techniques such as analysis or records, periodic briefings, and supervisory controls. Monitoring of telephone conversations to determine whether the communication is for official purposes is prohibited.

c. Pen registers may be used only in compliance with DoD Directive 5200.24 (reference (b)).

d. Incidental monitoring of telephone conversations by telephone operators and maintenance personnel is permitted and shall be limited to that necessary to perform mechanical or service quality control checks in connection with communications management activities. When monitoring, telephone operators and maintenance personnel must inform all parties to the conversation of their presence on the line, the reason for monitoring, and when they exit the circuit.

4. Command and Intelligence Center Monitoring and Recording

a. Monitoring and recording of command and intelligence

center communications are permitted to preserve the command and control instructions that direct operations and control forces or direct national foreign intelligence efforts.

b. Recording of command and intelligence center communications shall be limited to those situations where a record of the communications is necessary for mission accomplishment. Such recording activity does not require the use of tone-warning devices (FCC Number 76-467 (reference (f))).

c. All telephones subject to command and intelligence center monitoring and recording shall be marked clearly to inform users that conversations may be monitored or recorded.

5. Telephone Recording by American Forces Radio and Television Service

a. Recording of telephone conversations for later broadcast by American Forces Radio and Television Service may be accomplished if parties to the conversation have given their prior consent to the recording.

b. Such telephone recording activity by American Forces Radio and Television Service does not require the use of tone-warning devices (FCC Number 72-1127 (reference (g))).

E. RECORDS ADMINISTRATION

All records of information obtained through monitoring activities conducted under the provisions of this Directive shall be maintained and disseminated in accordance with the provisions of DoD Directives 5400.7 and 5400.11 (references (h) and (i)).

F. MONITORING AND RECORDING EQUIPMENT

1. Equipment primarily useful for telephone monitoring and recording shall be safeguarded to prevent unauthorized access and use.

a. Appropriate inventory records shall be maintained to account for such equipment.

b. To the extent consistent with operational requirements, equipment primarily useful for telephone monitoring and recording shall be kept in secure and controlled storage when not in use.

c. Telephone monitoring and recording equipment attached to communications terminals shall be safeguarded.

Only those persons listed in the inventory records for such equipment shall have access to the equipment when it is in operation.

2. The inventory and safeguarding provisions of this section do not apply to authorized speakerphones, extension telephones, telephone-answering devices, similar equipment used in connection with ordinary telephone service, or other devices not primarily useful for telephone monitoring and recording.

3. Transmitter cut-off switches, push-to-talk features, or other listening-in circuits may be installed only on telephones located in areas where the national security or essential operations would be adversely affected if the devices were not used.

G. RESPONSIBILITIES

1. The Deputy Under Secretary of Defense for Policy Review, or a designee, shall provide supervision for the operation and safeguarding of telephone monitoring and recording equipment used under this Directive.

2. The Head of each DoD Component and the Director, Washington Headquarters Services for OSD elements, or designee, shall:

a. Ensure that any telephone monitoring activities conducted by the DoD Components are in compliance with the policies and procedures in this Directive.

b. Designate an individual, by title or position, to supervise the activities covered by this Directive, and provide this information to the Office of the Deputy Under Secretary of Defense for Policy Review (Attention: Director, Security Plans and Programs).

c. Issue implementing regulations when required to ensure compliance with the provisions of this Directive.

H. INFORMATION REQUIREMENTS

DoD Components shall report to the Deputy Under Secretary of Defense for Policy Review, within 5 working days after discovery, all intentional actions that violate provisions of this Directive. Occurrences not involving intent, such as inadvertent equipment failure, shall be reported within Component channels only. Reports of violations to the Deputy Under


Secretary of Defense for Policy Review shall contain, at a minimum, the following items:

1. Nature of the violation;
2. Date, time, and location of occurrence;
3. Individual or agency responsible for the infraction;
4. Brief summary of the incident;
5. Corrective action taken; and
6. Current status of the inquiry.

These reports are assigned Report Control Symbol DD-COMP(AR) 1433.

I. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Deputy Under Secretary of Defense for Policy Review within 120 days.


W. Graham Claytor, Jr.
Deputy Secretary of Defense

Enclosures - 2

1. References
2. Definitions

REFERENCES, continued

- (b) DoD Directive 5200.24, "Interception of Wire and Oral Communications for Law Enforcement Purposes," April 3, 1978
- (c) DoD Directive S-5200.19, "Control of Compromising Emanations," February 10, 1968
- (d) Executive Order 12036, "United States Intelligence Activities," January 24, 1978
- (e) Use of Recording Devices in Connection with Telephone Service, Docket No. 6787, 11 F.C.C. 1033 (1947); 12 F.C.C. 1005 (1947); 12 F.C.C. 1008 (1948)
- (f) Federal Communications Commission, "Memorandum Opinion and Order," Number 76-467, May 19, 1976 (59 F.C.C. 2d 538)
- (g) Federal Communications Commission, "Memorandum Opinion and Order," Number 72-1127, December 13, 1972 (38 F.C.C. 2d 579)
- (h) DoD Directive 5400.7, "Availability to the Public of Department of Defense Information," February 14, 1975
- (i) DoD Directive 5400.11, "Personal Privacy and Rights of Individuals Regarding Their Personal Records," August 4, 1975

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DTIC QUALITY ASSURANCE

DEFINITIONS

1. Monitoring. The aural acquisition of the contents of a telephone communication by a person or persons other than the participants in the conversation.
2. Recording. The process of preserving the contents of a telephone communication through use of electronic, mechanical, magnetic, stenographic, or other devices. Recording does not include the making of written notes by participants in a conversation.
3. Office Management Activities. The monitoring or recording of telephone conversations for business purposes by persons or devices located in the same office as one of the participants in the conversation. Office management activities include the monitoring by secretaries, administrative assistants or other non-participants in the conversation through the use of extension phones, speakerphones, or other devices and making of notes by such non-participants.
4. Communications Management Activities. Measures taken to ensure the proper mechanical operation and the efficient use of DoD-owned or leased telephone communications systems. The measures include mechanical and electronic means of recording, the computer analysis of numbers of telephone calls and their duration, the number of busy signals for a given period, and the total load on a telephone system. Communications management also includes the accumulation of system-wide records of international long-distance and local calls, to include numbers called, time, and duration of calls.
5. Command and Intelligence Center Monitoring and Recording. Monitoring or recording communications of command and intelligence centers that direct operations and control forces or direct national intelligence efforts. Such communications include the disposition of armed forces, implementation of the DoD foreign intelligence mission, emergency police and fire reporting information, air traffic control, distress calls from ships and aircraft, and the coordination of actions resulting from bomb threats and hijacking incidents.
6. Acoustic device. A wireless receiving device that attaches to a telephone handset and electronically transmits communications to a recording device.
7. Inductive Device. Essentially the same as an acoustic device except that the receiving device is connected by a wire to the recording device.

8. Pen register. A mechanical device that records the telephone numbers dialed from a particular telephone instrument. A pen register records telephone numbers only, not conversations.

9. Transmitter Cut-Off Switch/push-to-Talk. Both these devices serve the purpose of disabling the transmitter portion of a telephone instrument. The difference between these devices lies in the manner in which they accomplish this function. A transmitter cut-off switch is built into the telephone instrument and is activated only when the telephone handset is placed in the cradle. A push-to-talk device is a button or switch located on the telephone handset that must be operated by hand in order to disable the telephone transmitter.

10. Listening-in Circuit. Most telephone circuits are designed for two-way communications. A listening-in circuit is one that permits overhearing but cannot be used for transmission.

SUPPLEMENTARY

INFORMATION

DEPARTMENT OF DEFENSE

DIRECTIVES SYSTEM TRANSMITTAL

NUMBER

4640.1, Change 1

DATE

November 16, 1994

DISTRIBUTION

4000 Series

ATTACHMENTS

None

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INSTRUCTIONS FOR RECIPIENTS

The following pen changes to DoD Directive 4640.1, "Telephone Monitoring and Recording," January 15, 1980, are authorized as follows:

PEN CHANGES

Section I.

Heading. Delete "AND IMPLEMENTATION"

Lines 1 through 3. Delete "Forward two copies of implementing documents to the Deputy Under Secretary of Defense for Policy Review within 120 days."

EFFECTIVE DATE

The above pen changes are effective immediately. Although the pen changes remove the requirement for DoD Components to issue implementing documents, this Directive is directly applicable to all elements with the Components and the Heads of the DoD Components are responsible for carrying out the DoD guidance.


JAMES L. ELMER
Director
Correspondence and Directives

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT